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KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Public (SC) Department

NOTIFICATION

No. 92-SC/76/Pub (SC). *Dated, Trivandrum, 9th October 1976.*

The following is the revised Select List, as approved by the Government, of Officers for promotion to the category of Joint Secretary to Government in the Administrative Secretariat prepared by the Departmental Promotion Committee. This revises the Select List published as Notification No. 78-SC/76-1/Pub (SC) dated 15th July 1976 in Gazette Extraordinary dated 15th July 1976.

Select List

1. Shri K. K. Gopalan
2. ,, P. V. Joseph
3. ,, V. K. Kuttan
4. ,, P. N. Pisharody
5. ,, K. Sankaranarayanan
6. ,, V. P. Joseph
7. ,, K. Krishnan Nair
8. ,, K. P. Gopinath
9. ,, I. Gopalan
10. ,, V. Nallathampi

N. CHANDRA BHANU,

Chief Secretary to Government
Convener,
Departmental Promotion Committee.

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GOVERNMENT OF KERALA

Taxes (D) Department

NOTIFICATIONS

G. O. Ms. No. 127/76/TD. *Dated, Trivandrum, 6th October 1976.*

I

S. R. O. No. 1037/76.—In exercise of the powers conferred by clauses (i), (IV), (X) and (XIII) of section 2 and sub-section (2) of section 3 of the Kerala General Sales Tax Act, 1963 (15 of 1963), and clause (b) of rule 3 of Kerala General Sales Tax Rules, 1963, the Government of Kerala hereby make the following amendments to their Notification-I published in G.O.Ms. 278/Rev., dated the 30th March, 1963 as S. R. O. No. 335/63 at pages 1 to 17 of the Kerala Gazette Extraordinary No. 71 dated the 31st March, 1963, as subsequently amended, namely:—

AMENDMENTS

In the Schedule to the said Notification, under the heading "Appellate Assistant Commissioners and Additional Appellate Assistant Commissioners",—

(1) for item 6 and the entries against it the following items and entries shall be substituted, namely:—

"6. Appellate Assistant Commissioner of Agricultural Income-tax and Sales-tax, Palghat	Palghat	Revenue District of Palghat.";

33/3867/MC

(2) item 7 and the entries against it shall be omitted;

(3) for item 8 and the entries against it the following item and entries shall be substituted, namely:—

"8. Appellate Assistant Commissioner of Agricultural Income-tax and Sales-tax, Kozhikode	Kozhikode	Revenue Districts of Kozhikode and Malappuram.";

(4) after item 12 and the entries against it the following item and entries shall be inserted, namely:—

"12A. Additional Appellate Assistant Commissioner of Agricultural Income-tax and Sales-tax, Cannanore	Cannanore	Revenue District of Cannanore.".

II

S. R. O. No. 1038/76.—In exercise of the powers conferred by sub sections (2) and (3) of section 15 of the Agricultural Income Tax Act, 1950 (XXII of 1950), the Government of Kerala hereby make the following amendments to their Notification-IV published in G. O. Ms. No. 806/Rev/61 dated the 30th August, 1961 as S. R. O. No. 204/61 at pages 22 to 36 of the Kerala Gazette Extraordinary No. 101, dated the 30th August, 1961 as subsequently amended, namely:—

AMENDMENTS

In the schedule to the said Notification,—

(1) for the existing entry in column (4) against item 11, the following entry shall be substituted, namely:—

"Within the Revenue District of Palghat";

(2) item 11A and the entries against it shall be omitted;

(3) for the existing entry in column 4, against item 13, the following entry shall be substituted, namely:—

"Revenue Districts of Kozhikode and Malappuram";

(4) after item 17 and the entries against it the following item and entries shall be inserted, namely:—

"17A Additional Appellate Assistant Commissioner of Agricultural Income-tax and Sales-tax, Cannanore	Assistant Commissioner of Agricultural Income-tax	All the powers of the Assistant Commissioner of Agricultural Income-tax and Agricultural Income-tax Officer.	Within the Revenue District of Cannanore.".

By order of the Governor,

J. S. JESUDHASAN,
Secretary to Government.

Explanatory Note

(This does not form part of the amendment but is intended to indicate its general purport).

In G. O. Rt. No. 405/76/TD dated 25-5-1976 sanction was accorded to shift the post of Additional Appellate Assistant Commissioner, Palghat to the office of the Appellate Assistant Commissioner, Cannanore in order to reduce the pendency of appeals in the office of the Appellate Assistant Commissioner, Cannanore. It was also ordered that the Appellate Assistant Commissioner, Kozhikode will be given jurisdiction over the Revenue District of Malappuram also, restricting the jurisdiction of the Appellate Assistant Commissioner, Palghat to the Revenue District of Palghat. In order to re-assign jurisdiction of the Appellate Assistant Commissioners, Palghat and Kozhikode and to assign jurisdiction to the Additional Appellate Assistant Commissioner, Cannanore, it has become necessary to amend the original notifications issued under the Kerala General Sales Tax Act, 1963 and the Agricultural Income Tax Act, 1950. These notifications are intended to achieve this object.

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GOVERNMENT OF KERALA

Health (G) Department

NOTIFICATIONS

No. 59838/G3/76/HD. *Dated, Trivandrum, 6th October 1976.*

(i)

S. R. O. No. 1039/76.—In exercise of the powers conferred by sub-section (1) of section 9 of the Prevention of Food Adulteration Act, 1954 (Central Act 37 of 1954) and in supersession of Notification V (i) No. 70566/G3/75-5/HD dated the 22nd January, 1976 and published in Kerala Gazette Extraordinary No. 33 dated the 23rd January 1976, the Government of Kerala hereby appoint Shri K. V. Bhaskaran Nair, Health Inspector, Tirur Municipality to be Food Inspector for the purposes of the said Act and assign to him the area within the Tirur Municipality as the local area within which he shall exercise his powers under the said Act.

(ii)

In exercise of the powers conferred by sub-section (1) of section 9 of the Prevention of Food Adulteration Act, 1954 (Central Act 37 of 1954) and in supersession of Notification V (ii) No. 70566/G3/75-5/HD dated the 22nd January 1976 and published in Kerala

Gazette Extraordinary No. 33 dated the 23rd January 1976, Government of Kerala hereby authorise Shri K. V. Bhaskaran Nair, appointed as Food Inspector under sub-section (1) of section 9 of the Act in the Tirur Municipality. to institute prosecutions for offences under the said Act.

By order of the Governor,

C. P. RAMAKRISHNA PILLAI,
Secretary (Health).

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport).

Shri K. V. Bhaskaran Nair has been transferred and posted as Food Inspector in Tirur Municipality. It is therefore necessary to appoint him as Food Inspector under Section 9 of the P. F. A. Act and authorise him under section 21 to institute prosecutions for the offences under the Act.

The notifications are for the above purpose.

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GOVERNMENT OF KERALA

Health (G) Department

NOTIFICATIONS

No. 59256/G3/76/HD. *Dated, Trivandrum, 7th October 1976.*

(i)

S. R. O. No. 1040/76.—In exercise of the powers conferred by sub-section (1) of section 9 of the Prevention of Food Adulteration Act, 1954 (Central Act 37 of 1954) and in supersession of Notification I No. 30205/G3/75-1/HD dated 20-11-1975 published as S. R. O. No. 1145/75 dated 20-11-1975 in Kerala Gazette No. 48 dated 9-12-1975, the Government of Kerala hereby appoint Shri P. M. Lekshmanan, Health Inspector, Grade II of Calicut Corporation to be Food Inspector for the purposes of the said Act and assign to him the area within the Calicut Corporation as the local area within which he shall exercise his powers under the said Act.

(ii)

In exercise of the powers conferred by sub-section (1) of section 20 of the Prevention of Food Adulteration Act, 1954 (Act 37 of 1954) and in supersession of Notification II No. 30205/G3/75-1/HD dated

20-11-1975 published as S. R. O. No. 1146/75 dated 20-11-1975 in Kerala Gazette No. 48 dated 9-12-1975, the Government of Kerala hereby authorise Shri P. M. Lekshmanan appointed as Food Inspector under sub-section (1) of section 9 of the Act in Calicut Corporation to institute prosecutions in respect of the offences under the said Act.

By order of the Governor,

C. P. RAMAKRISHNA PILLAI,
Secretary (Health).

Explanatory Note

(This does not form part of the notification, but is intended to bring out its general purport).

Shri P. M. Lekshmanan, Health Inspector has been transferred and appointed as Food Inspector under section 9 (1) of the P. F. A. Act in Calicut Corporation. He is also authorised under section 20 (1) of the Act to institute prosecutions in respect of the offences under the Act. Hence these notifications are issued.

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 8165/LA4A/76. *Dated, Trivandrum, 9th October* 1976.

The Kerala Panchayats (Second Amendment) Bill, 1976 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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TRIVANDRUM, 1976.

13/3873/G

Fourth Kerala Legislative Assembly

Bill No. 275

THE KERALA PANCHAYATS (SECOND AMENDMENT) BILL, 1976

A

BILL

further to amend the Kerala Panchayats Act, 1960.

Preamble.—WHEREAS it is expedient further to amend the Kerala Panchayats Act, 1960, for the purpose hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—This Act may be called the Kerala Panchayats (Second Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 6th day of October, 1975.

2. *Amendment of section* 66*A.*—In section 66A of the Kerala Panchayats Act, 1960 (32 of 1960) (hereinafter referred to as the principal Act), in sub-section (1B), the words "or, where the land is in the possession of a mortgagee or lessee or other person having right to possession and enjoyment of the land, by such person" shall be inserted at the end.

3. *Repeal and saving.*—(1) The Kerala Panchayats (Second Amendment) Ordinance, 1976 (10 of 1976), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

According to section 66A of the Kerala Panchayats Act, 1960, the land cess levied under that section is payable by the owner of the land. The term 'owner' is not, however, defined in that Act. In a common judgment disposing of certain writ petitions filed by lessees of certain lands challenging the levy of land cess under the said section (reported in 1975 KLT 102) the Kerala High Court held that the term 'owner' as a person realising the rent would indicate that in respect of tenanted land Government understood the

owner as a person receiving the rent and not the lessee and that as the matter now stands, lessees are not liable to pay the tax. The Court also observed that possibly the Government might not have intended this result, for, it would be anomalous to call upon impecunious owners these days to pay tax on the lands in the possession of their tenants and that if the Legislature did not intend to exclude the lessees from the operation of the provisions of section 66A of the Act, that is a matter for consideration by the Legislature by appropriate amendment of the Statute.

2. In the light of the above judgment of the High Court, it was considered necessary to amend section 66A of the Act to make it clear that where the land is in the possession of a mortgagee or lessee or other person having right to possession and enjoyment of the land, the liability to pay the land cess under the said section shall be on such person. As the Legislative Assembly was not in session, the Kerala Panchayats (Second Amendment) Ordinance, 1976 (10 of 1976), was promulgated by the Governor on the 31st day of August, 1976, to achieve the above object.

3. The Bill seeks to replace the Ordinance by an Act of the Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

K. AVUKADERKUTTY NAHA

Reg. No. KL/TV/12

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 8189/LA4/76. *Dated, Trivandrum, 9th October 1976.*

The Kerala Municipal Corporations (Fourth Amendment) Bill, 1976 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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33/3875/G.

Fourth Kerala Legislative Assembly
Bill No. 276

THE KERALA MUNICIPAL CORPORATIONS (FOURTH AMENDMENT) BILL, 1976

A

BILL

further to amend the Kerala Municipal Corporations Act, 1961

Preamble.—Whereas it is expedient further to amend the Kerala Municipal Corporations Act, 1961, for the purpose hereinafter appearing;

Be it enacted in the twenty-seventh year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Municipal Corporations (Fourth Amendment) Act, 1976.

2. *Amendment of section 15.*—In section 15 of the Kerala Municipal Corporations Act, 1961 (30 of 1961) (hereinafter referred to as the principal Act), for the figures and words "354, 406, 425, and rules", the figures and words "354 and 406 and rules" shall be, and shall be deemed always to have been, substituted.

3. *Validation.*—Notwithstanding anything contained in any judgment, decree or order of any court, all delegations purported to have been made by the Commissioner of a Municipal Corporation, of any of his powers, duties or functions specified in section 425 of the principal Act, before the date of publication of this Act in the Gazette, shall, for all purposes, be deemed to be, and to have always been, valid and in accordance with law as if such delegation were made under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Clause (a) of section 425 of the Kerala Municipal Corporations Act, 1961, empowers the Commissioner of a Municipal Corporation to take, or withdraw from, proceedings against any person who is charged with any of the offences mentioned in that clause. Section 419 of that Act provides that no person shall be liable to be tried for any offence against any of the provisions of the Act, or of any rule, by-law, regulation or order made under it, unless complaint is made within six months from the commission of the offence,

by the Police or the Commissioner or by a person authorised in that behalf by the council or the standing committee or the Commissioner. Section 15 of the Act, however, prohibits the Commissioner from delegating his powers under section 425 of the Act.

2. Under section 419, the Commissioners of certain Municipal Corporations have authorised their subordinate officers to file complaints in respect of offences mentioned in section 425 of the Act. In disposing of Criminal Revision Petition No. 542 of 1973, a Division Bench of the Kerala High Court has held that the Commissioner's power of delegation of his powers, duties and functions are provided for in section 15 of the Act and circumscribed by the provisions therein and that the delegation of the powers, duties and functions conferred on the Commissioner by section 425 of the Act is prohibited by the express provision in section 15 thereof. The court has further held that section 419 deals only with the period of limitation for making complaints and that construing that section as a provision enabling the Commissioner to delegate his functions would render section 15 otiose.

3. The provisions of section 15 prohibiting the Commissioners from authorising subordinate officers to exercise the powers under section 425 create difficulty in the discharge of the powers, duties and functions conferred by that section efficiently, as the Commissioner will not be able to take action personally in all the cases specified in section 425. It is, therefore, considered necessary to amend section 15 of the Act to remove the prohibition contained in that section against delegation of powers under section 425 by the Commissioner.

4. It is also considered that all authorisations already made by the Commissoiners to exercise the powers under section 425 should be validated.

5. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the consolidated fund of the State.

K. AVUKADERKUTTY NAHA

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 8200/L.A.4A/76. *Dated, Trivandrum, 9th October* 1976

The Kerala Panchayats (Third Amendment) Bill, 1976 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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33/3877/G.

Fourth Kerala Legislative Assembly
Bill No. 277

THE KERALA PANCHAYATS (THIRD AMENDMENT) BILL, 1976

A

BILL

further to amend the Kerala Panchayats Act, 1960.

Preamble.—WHEREAS it is expedient further to amend the Kerala Panchayats Act, 1960, for the purpose hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Panchayats (Third Amendment) Act, 1976.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Amendment of section* 68.—In section 68 of the Kerala Panchayats Act, 1960 (32 of 1960), in sub-section (1), for the words "four percent", the words "six percent" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 68 of the Kerala Panchayats Act, 1960, provides that every panchayat shall levy a tax on all buildings (other than huts and buildings exempted by the provisions of the said Act) in the Panchayat area at such percentage of the net annual rental value of the building as may be fixed by the panchayat by resolution, subject to a maximum of ten per cent and a minimum of four percent. Though, the panchayats are empowered according to the said sub-section to levy building tax up to ten percent of the net annual rental value of the building, no panchayat is at present levying the tax at a rate higher than the minimum rate of four percent. This results in additional burden to the panchayats and increases the liability of the Government to assist them by granting loans and grants to meet their obligatory functions. It is, therefore, proposed to amend sub-section (1) of section 68 for the purpose of raising the minimum rate of four percent to six percent so that all the panchayats shall have to levy building tax at least at the rate of six percent, which will improve their financial position to that extent.

2. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

K. AVUKADERKUTTY NAHA.

33/ 876/G.